IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 23086 of 1996

Between:

Dasari Yellaiah S/o.NAgappa
Central Industrial Security Force (Under Orders of Removal from Service)
R/o.Gani Village,Gadivemula Mandal,Kurnool Dist.

..... PETITIONER

AND

1 The Group Commandant,Central Industrial Security Force (Ministry of Home Affairs) Building No.11-6-837,Red Hills Lakdikapul, Hyderabad.
2 The Deputy Inspector General Central Industrial Security Force (SZ) Ministry of Home Affairs Annanagar East,Madras.
3 The Inspector General (SWS),Central Industrial Security Force, Ministry of Home Affairs R.C.F.L. Complex Chembur, Mumbai.
4 The Deputy Commandant,Central Industrial Security Force Unit, I.G.Mint, Near Secretariat Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Certiorari, or any other appropriate writ, order or direction, calling for the records pertaining to the Final Order in proceedings No.V-15014/AD.IV/DP-2/95/7/7037, dt.19/20-10-1995 issued by the 1st respondent, as confirmed in Appellate Order vide No.11014/59/96-A6(SZ)/2378, dt.12-3-1996 issued by the 2nd respondent, and as confirmed vide Order No.V-11014/8/SWS/96-308, dt.31-5-1996/3-6-1996 issued by the 3rd respondent and quash the same as illegal, arbitrary, unjust and unconstitutional, being violative of A.P.C.S. (CC&A) Rules, 1991 and also Principles of Natural Justice by holding that the petitioner is entitled to be reinstated and contained in service as Constable in Central Industrial Security Force, with all consequential benefits.

Counsel for the Petitioner: MR.T.SURYA KARAN REDDY

Counsel for the Respondent No.: Mr.M.Ranga Rao, Additional S.C. for C.G.

The Court made the following :

ORDER:

This writ petition is directed against the order, dated 19/20-10-1995 passed by the Group Commandant Central Industrial Security Force (Ministry of Home Affairs), Red Hills, Hyderabad, wherein the petitioner was removed from service of the Central Industrial Security Force (C.I.S.F.)

According to the petitioner, he was appointed as a constable in C.I.S.F. in the year 1984. He worked at Halda Dock Complex, West Bengal, Medhanapur District up to1988. Thereafter, he worked at Roorkela Steel Plant from 1988 to 1990 and from 1990 to 1991 in the office of the group Commandant and from 1991 to 1995 at I.G. Mint Compound, Hyderabad. While so, on 24-11-1994, by office order, dated
22-11-1994, he was directed to appear before the Psychiatrist at Osmania General Hospital, Hyderabad, which he refused to do so. Therefore, charge sheet dated 21-04-1995 was issued enumerating the following charges.

> "Charge No.1 Gross indiscipline and misconduct in that No.8338097 constable D.Yellaiah of C.I.S.F Unit, IG Mint, Hyderabad has deliberately dis-obeyed the orders of Group Commandant, Hyderabad, to have Medical Examination at Osmania General Hospital, Hyderabad on 22-11-1994.
>
> Charge No.2: Indiscipline and misconduct in that No.8338097 Constable D.Yellaiah of C.I.S.F. Unit IG Mint Hyderabad has deliberately blamed and insulted his superiors vide his reply to explanation dated 13-12-1994."

He also asserted that he had submitted explanation on 20-06-1995 denying the charges. Thereafter, on 24-06-1995, one R.B.Singh, Inspector was appointed as an enquiry officer and after completion of enquiry, he submitted report on
11-09-1995, which was communicated to the petitioner on 21-09-1995. The petitioner submitted his reply to the enquiry report. After that, proceedings were issued removing him from service of the C.I.S.F. It is contended by the

petitioner that the punishment imposed was disproportionate to that of the charges levelled against him, apart from alleging that he was never mentally unwell and that the action of the Officer was not *bona fide*. If he required Psychiatric treatment, all his actions including refusal to get medical examination in pursuance of the Office Order, dated 22-11-1994 issued by the fourth respondent cannot be taken into cognizance for the purpose of removing him from service. If he is medically unfit, the authorities, instead of conducting enquiry and removing from service, ought to have taken up the matter under medical invalidation scheme and ordered retirement. He has also asserted that the enquiry conducted by the Enquiry Officer was contrary to the principles of natural justice and also contrary to the provisions of A.P.C.S.(C.C.&A) Rules, 1991. Aggrieved by the removal order he had filed appeal on 06-11-1995 before the second respondent and the same was rejected by an order, dated 12-03-1996. Against that order, he preferred revision before the third respondent, which was also rejected on 31-05-1996/03-06-1996. Aggrieved by the said order, present writ petition is filed.

A detailed counter-affidavit has been filed on behalf of the respondents denying the allegations made by the petitioner. At para 5 of the counter, it is stated that the petitioner wrote letters to the Prime Minister of India, Home Minister, Chief Minister of Andhra Pradesh and DIG/CISF directly without observing proper channel by making false allegations and fabricating charges against Senior Officers. Therefore, the Department assumed that such activities of the petitioner are the result of his imbalanced mind and it was considered necessary to send him to Osmania General Hospital, Hyderabad for Psychiatric test and treatment, which the petitioner refused to do so. Consequently, charge sheet was issued against the petitioner and Enquiry Officer was appointed and after conducting detailed enquiry, he was removed from service.

Heard the learned counsel on either side.

The facts are not much in dispute. The Department of C.I.S.F., *prima facie*, felt that the petitioner lost his balance of mind and required test and treatment by a Psychiatrist, and therefore, ordered for medical checkup, but the petitioner refused for it. As per the counter, it is clear that even before issuance of the charge sheet, the conduct of the petitioner as to sending of letters to the Prime

Minister of India, Home Minister, Chief Minister of Andhra Pradesh and DIG/CISF making false allegations against Senior Officers was itself found to be an act of unsound person. If the petitioner refused to undergo test and treatment by a Psychiatrist, as was directed, there was no wonder in such an act. The emphasis laid on behalf of the petitioner is that once the petitioner is mentally imbalanced, his refusal to approach a Psychiatrist and get himself tested and treated itself was not warranted. If really the Department of C.I.S.F. was interested in knowing about the health condition of the petitioner, they could have physically lifted the petitioner and taken him to a competent Psychiatrist and get him tested and treated. If he is found to be mentally unsound and suffering from irretrievable Psychic problem, the only way left for the Department was to retire him from service under medical invalidation scheme, and pay the retirement benefits for which he is eligible, including pensionary benefits. Instead of adopting such a course of action, the department has proceeded against the petitioner, who is alleged to be a person of unsound mind, by issuing charge sheet and conducting a detailed enquiry into the matter and removing him from service of the C.I.S.F on the ground that he disobeyed the orders of the Department.

When it was enquired by the Court with the learned counsel for petitioner, learned counsel stated that even at the time of filing writ petition, the petitioner was not in a position to give all the facts properly and with the help of a friend and also some material papers, he did so. Further, when he had sent a Telegram to contact him, on 13-08-2004, by making a Xerox copy of the Telegram the petitioner had scribbled something, which is neither legible nor understandable and sent the same to him. The Telegram is made part of the record.

In these circumstances, I am of the considered opinion that conducting enquiry against a person, who is of unsound mind and removing him from service is nothing but arbitrary and illegal and therefore, the order of removal is liable to be set aside.

Therefore, the order dated 19/20-10-1995 issued by the first respondent is set aside, leaving it open to the respondents to get the petitioner tested by a Psychiatrist within a period of one month from the date of receipt of a copy of

this order and if the petitioner is found to be mentally unsound and suffering from any mental ailment, which is incurable by any treatment, he may be dealt with under medical invalidation scheme by providing all the pensionary benefits to him, for which he is entitled to as per law. However, if the petitioner is found to be of sound mind or suffering from any decease, which is curable in nature, he may be taken back into service treating the period of absence in accordance with the Rules of the C.I.S.F.

The writ petition is allowed to the extent indicated above. No costs.

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on the Monday the Fourth day of October, Two thousand and Four.

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04-10-2004

klp

To

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5 Two C.D. copies.